

Excerpt from the Health Insurance Portability and Accountability Act (HIPAA) Regarding Self-Funded Nonfederal Governmental Plans

SEC. 2721. EXCLUSION OF CERTAIN PLANS.

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(b) LIMITATION ON APPLICATION OF PROVISIONS RELATING TO GROUP HEALTH PLANS.

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(2) TREATMENT OF NONFEDERAL GOVERNMENTAL PLANS. –

(A) **ELECTION TO BE EXCLUDED.**—Except as provided in subparagraph (D), if the plan sponsor of a nonfederal governmental plan which is a group health plan to which the provisions of subparts 1 through 3 otherwise apply makes an election under this subparagraph (in such form and manner as the Secretary may by regulations prescribe), then the requirements of such subparts insofar as they apply directly to group health plans (and not merely to group health insurance coverage) shall not apply to such governmental plans for such period except as provided in this paragraph.

(B) **PERIOD OF ELECTION.**-- An election under subparagraph (A) shall apply:

- (i) for a single specified plan year, or
- (ii) in the case of a plan provided pursuant to a collective bargaining agreement, for the term of such agreement.

An election under clause (i) may be extended through subsequent elections under this paragraph.

(C) **NOTICE TO ENROLLEES.**-- Under such an election, the plan shall provide for—

- (i) notice to enrollees (on an annual basis and at the time of enrollment under the plan) of the fact and consequences of such election, and
- (ii) certification and disclosure of creditable coverage under the plan with respect to enrollees in accordance with section 2701(e).

(D) **ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.** – The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F), (b)(3), (c), and (d) of section 2702 and the provisions of sections 2701 and 2702(b) to the extent that such provisions apply to genetic information.